

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

'09 CIV 2375

HECTOR SAMIENGO,

Plaintiff,

COMPLAINT

-against-

JUDGE ROBINSON

AFNI, INC.

Defendant.

FILED
U.S. DISTRICT COURT
S.D. OF N.Y. E.C.
2009 MAR 13 P 3 21

Plaintiff, by and through his undersigned attorney, alleges upon knowledge as to himself and his own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action on her own behalf and on behalf of all others similarly situated for damages and declaratory and injunctive relief arising from the defendant's violation of §1692 *et seq.* of Title 15 of the United States Code, the Fair Debt Collections Practices Act (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692.

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2).

PARTIES

4. Plaintiff Hector Samiengo (hereinafter "Samiengo") is a resident of the State of New York, Westchester, County. On or about March 14, 2008, plaintiff received an initial debt collection notice from defendant Afni, Inc.

5. Defendant Afni, Inc. is an Illinois Corporation engaged in the business of purchasing and collecting defaulted debt. Defendant regularly attempts to collect debt. Its Registered Agent is the C T Corporation Company, Inc., 111 Eighth Avenue, New York, NY 10011.

STATEMENT OF FACTS

6. On or about March 14, 2008, defendant did send to the plaintiff an initial collection letter. Copy of said letter is annexed hereto as Exhibit A.
7. The collection letter stated that Afni, Inc. acquired the Bell Atlantic account at issue and stated that the debt collector believed it was in the consumer's "best interest to resolve this account."
8. The consumer disputed the assertion that Afni, Inc. acquired the Bell Atlantic account at issue and demanded that both verification of the debt and the address of the original creditor be sent provided.
9. Defendant employs false representations when attempting to collect debt it claims to have purchased despite its inability to verify the debt or ascertain basic information, such as the address of the original creditor.
10. As a result of defendant's abusive, deceptive and unfair debt collection practices, plaintiff has been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

11. Each of the above allegations is incorporated herein.
12. Defendant's debt collection attempts violate various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(10), 1692g, 1692g(a)(2), 1692g(a)(4) and 1692g(a)(5), by falsely and deceptively attempting to collect Bell Atlantic debt it cannot evidence, cannot prove it owns nor identify the address of the original creditor, upon dispute.
13. As a result of defendant's violations of the FDCPA, plaintiff has been damaged and is entitled to statutory damages, costs and attorney's fees.

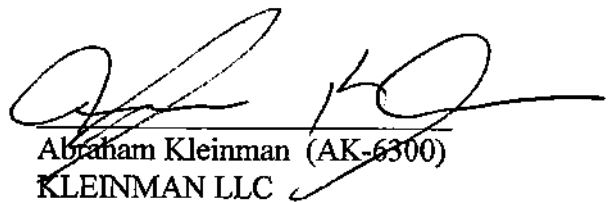
WHEREFORE, plaintiff respectfully requests that the Court enter judgment as follows:

- a) Awarding plaintiff statutory damages;
- b) Awarding plaintiff costs of this action, including reasonable attorneys' fees and expenses; and
- c) Awarding plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the FRCP, plaintiff hereby demands a trial by jury.

Dated: March 12, 2009
Uniondale, New York

A handwritten signature in black ink, appearing to read 'Abraham Kleinman', is written over a horizontal line.

Abraham Kleinman (AK-6300)
KLEINMAN LLC
626 RXR Plaza
Uniondale, New York 11556-0626
Telephone (516) 522-2621
Facsimile (888) 522-1692

EXHIBIT A

Afni, Inc.
PO Box 3427
Bloomington, IL 61702-3427
(888)257-1585
www.afnicollections.com

COLLECTION NOTICE

This account has been acquired by our agency for collection. We believe it is in your best interest to resolve this account.

If you have any questions, please contact our office toll free at (888)257-1585 Monday through Friday 7am-8pm CST. For proper credit on your account, please write this number 022142712-02 on your payment.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of the debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgement and mail you a copy of such judgement or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor. This is an attempt to collect a debt. Any information obtained will be used for the purpose. You have the right to inspect your credit. This letter is from a debt collector.

Please see reverse side of this notice for our Privacy Statement and credit card payment options.

To manage your account online, visit us at : www.afnicollections.com

New York City Department of Consumer Affairs License Number #1072175

This account is for a remaining balance from the original creditor for services associated with the previous telephone number listed below.

Please retain this information for your records

Afni, Inc. Account #	Balance Due	Original Creditor	Disconnected Phone #	Date
022142712-02	\$73.74	Bell Atlantic	(914)375-5282	3/14/2008

Detach along perforation and return bottom portion along with payment in the enclosed envelope. Credit card payment options are on the back of notice.



For proper credit, please include your Afni account # listed below on your check



AFN7-02142712-02-02-1008

Department 555
PO BOX 4115
CONCORD CA 94524



ADDRESS SERVICE REQUESTED

#BWNFTZF #AFN7755158806039#



HECTOR SAMANIEGO
9 LAWRENCE ST APT 5E
YONKERS NY 10705-3225

Afni, Inc. Account #: 022142712-02
Original Creditor: Bell Atlantic
Disconnected Phone #: (914)375-5282
Balance Due: \$73.74
Date: 3/14/2008
Toll Free: (888)257-1585

1 02022142712 991500 7374

PO Box 3427
Bloomington, IL 61702-3427

